

Award No. 168

Docket No. 165

2-CRI&P-MA-'37

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 6, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

**THE CHICAGO, ROCK ISLAND & PACIFIC
RAILWAY COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: That Machinist Helper Vance Detwiler lost his seniority as machinist helper and engine inspector at Pratt, Kansas, on February 24, 1936, the date he transferred, without protest, to Dalhart, Texas, where he advanced to engine inspector. He was laid off in reduction of force March 7, 1936, and returned to Pratt with his machinist helper rights unimpaired, in violation of the letter agreed to between management and System Federation No. 6 under date of September 6, 1935.

EMPLOYEES' STATEMENT OF FACTS: On February 24, 1936, Machinist Helper Vance Detwiler was transferred from Pratt, Kansas, to Dalhart, Texas, and was advanced to engine inspector at Dalhart, an increase in force at that point. The local shop committee at Dalhart protested to former Master Mechanic L. C. Sharp for transferring and advancing Machinist Helper Detwiler to Dalhart as engine inspector when senior machinists were laid off on that division, and this is a violation of Rule No. 28 and last paragraph Rule No. 60 of the agreement.

March 9, 1936, Vance Detwiler returned to Pratt as a machinist helper with rights unimpaired, over protest of the local committee at Pratt, this being a violation of letter of September 6, 1935, File L-127-R-30 of the agreement. (Exhibit A.)

May 10, 1936, Machinist Helper Vance Detwiler was again advanced to second-class machinist by former Master Mechanic L. C. Sharp over protest of local shop committee and myself. I handled this case up to the superintendent of motive power; also called attention to and discussed this violation with Mr. G. E. Mallery, schedule inspector. On June 9, 1936, I again discussed the case of Detwiler being advanced to second-class machinist with Mr. Mallery and held another conference July 16, 1936, with Mr. Mallery and Mr. F. H. Frey, trying to reach an agreement on this case.

Detwiler was retained on second-class machinist job arbitrarily for 138 days until set up to engine inspector at Pratt on September 28, 1936, by Master Mechanic Hambleton over protest of local committee and myself, a violation of last paragraph of Rule No. 60, also letter of September 6, 1935. (Exhibit A.)

POSITION OF EMPLOYEES: Machinist Helper Vance Detwiler was not forced to transfer as engine inspector to Dalhart, Texas. He was a member of the local committee representing the helpers for the International Asso-

It is a serious thing to take seniority from an employe, and we think the above record indicates very clearly that Mr. Vance Detwiler has not done anything that would deprive him of his seniority or right to work in some capacity on this railroad, and that capacity to which he is entitled to work is, under the agreement, as a machinist at Pratt.

We do not see how this Board can do otherwise than deny the claim of the organization.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

A special agreement was negotiated, dated September 6, 1935, which agreement was for the purpose of outlining the manner of determining the future classification of certain groups of employes and their proper seniority position.

Vance Detwiler had previously held seniority rights in at least three classifications—helper, second-class machinist, and engine inspector.

On the date of the special agreement—September 6, 1935—Detwiler was working as a machinist helper and had seniority as such.

The third paragraph of the special agreement deals with men **now** (September 6, 1935) working in the higher classification, etc., and this paragraph, therefore, does not cover Detwiler.

The fifth paragraph of the special agreement deals with men **now** (September 6, 1935) working in the lower classification who hold rights in the higher classifications, and this paragraph does cover Detwiler.

Detwiler's status as a second-class machinist was decided by the proper authorities, and he held no rights in that classification.

Detwiler advanced to engine inspector classification on February 24, 1936, and, therefore, under the terms of the fifth paragraph of the September 6, 1935 agreement, "elected to remain in such higher class," and, therefore has no rights in any lower classification.

Therefore, the only classification in which Detwiler held seniority after February 24, 1936, was in the classification of engine inspector.

Detwiler's seniority as an engine inspector was not jeopardized at Pratt because of the temporary assignment at Dalhart, and he is entitled to all the rights that engine inspectors are entitled to under all understandings affecting this class after February 24, 1936.

AWARD

Adjustments shall be made in accordance with above findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 15th day of July, 1937.